

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: DAVID J. KUBISTA *ET AL.*

APPLICATION NO.: 10/687,458

FILED: OCTOBER 15, 2003

FOR: **SYSTEMS FOR DEPOSITING
MATERIAL ONTO WORKPIECES IN
REACTION CHAMBERS AND METHODS
FOR REMOVING BYPRODUCTS FROM
REACTION CHAMBERS**

EXAMINER: RUDY ZERVIGON

ART UNIT: 1763

CONF. NO: 8780

Reply Brief Under 37 C.F.R. § 41.41

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply responds to the Examiner's Answer mailed September 26, 2007. The Examiner's Answer does not contain any new grounds of rejection, but rather the Examiner's Answer merely repeats the rejections set forth in the preceding Office Action of May 8, 2006, without addressing the basis for overcoming the rejections established by the applicants in the Appeal Brief.

More specifically, the rejection of claims 16-23 over Schmitt and Aral is improper because the applicants established, *inter alia*, that modifying Schmitt's system to come up with the claimed arrangements "would change the principle of operation of Schmitt's system" in a manner contrary to the teachings of Schmitt. (Appeal Brief; Page 8). In the Appeal Brief, the applicants explained that Schmitt discloses that its primary and bypass traps must be operated alternatively, not concurrently. Rather than disputing Schmitt teaches the primary and bypass traps must be operated alternatively, the Examiner ignores the teachings of Schmitt and alleges that because both Schmitt and Aral were directed to controlling a pressure in a reaction chamber, the teachings of these references can be

combined to come up with the claimed combination of features. (Examiner's Answer; Page 11) The Examiner, for example, ignored explicit teachings in both Schmitt and Aral regarding how the pressure is controlled in the systems of Schmitt and Aral and did not appear to appreciate that operating two traps alternatively is different than operating the same traps concurrently. As such, whether Schmitt and Aral can be combined is not the issue; instead, the issue is that they cannot be combined in a manner in which Schmitt is modified to come up with the claimed combination of features of the pending claims.

In addressing this issue, the applicants explained that if Schmitt's system were to be modified to operate both the primary and bypass traps concurrently, Schmitt's system would have to be shut down when both the primary and bypass traps are clogged. Such operation of Schmitt's system would be in direct opposition to Schmitt's stated goal to avoid unduly disrupting the system operation. In the Examiner's Answer, the Examiner attempted to dismiss the applicants foregoing arguments by stating that the proposed combination is not using Aral's throttling valve with Schmitt's apparatus. Instead, the Examiner stated that "adding Aral's exhaust control apparatus in any portion of Schmitt's apparatus downstream of Schmitt's chamber ... would produce the stated benefits as explicitly taught by Aral." (Examiner's Answer; Page 13) However, the Examiner did not point out what portion of Aral's exhaust control apparatus is to be combined with Schmitt's apparatus to come up with the arrangements of the pending claims. The applicants are especially at a loss as to how the Examiner proposes to control the admittance of effluence gas from the reaction chamber into Schmitt's bypass trap without a throttling valve. In contrast, Aral's exhaust control apparatus includes the throttling valve at the exhaust of the reaction chamber to maintain a desired pressure in the reaction chamber.

Further, if Schmitt and Aral were to be combined as suggested by the Examiner in the Examiner's Answer, the combined teachings still would not disclose or suggest several features of the pending claims, e.g., "a throttling valve in the second branchline" of claim 16. As the applicants pointed out in the Appeal Brief, Schmitt discloses a block valve in the second branchline upstream of the bypass trap, and Aral discloses an exhaust throttling valve at the discharge of Aral's process chamber. (Appeal Brief; Page 9) If Aral's throttling valve is not added to Schmitt's system, as the

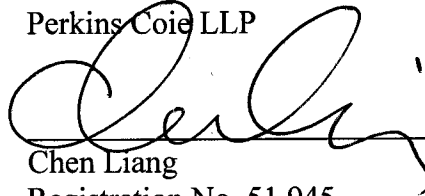
Examiner suggested, then the combined teachings would not disclose or suggest "a throttling valve" anywhere because Schmitt's system does not include any throttling valves for dynamically adjusting admittance of effluent gas into the traps. As a result, the combination suggested by the Examiner does not disclose or suggest at least one feature of the pending claims. Based on this point alone, the claim rejections should be reversed by the Board.

Further, as the applicants pointed out in the Appeal Brief, even if Aral's throttling valve is added to Schmitt's system, the combined teachings of Schmitt and Aral still fail to disclose or suggest "a throttling valve in the second branchline." (Appeal Brief; Pages 9-12) The Examiner attempted to dismiss the applicants' foregoing arguments with the conclusory statement that "one cannot show non-obviousness by attacking references individually." (Examiner's Answer; Page 13) The Examiner's assertion is misplaced. The applicants are not arguing that Schmitt does not disclose one feature that is disclosed in Aral. Instead, the applicants have pointed out that neither Schmitt nor Aral disclose or suggest, *inter alia*, the combination of "a throttling valve in the second branchline." (emphasis added) The Examiner has fails to point out where Schmitt and Aral disclose such features.

The Examiner's Answer does not contain any new grounds of rejection, nor does it specifically address the arguments advanced by the applicants in the Appeal Brief. Accordingly, the applicants continue to advance the arguments set forth in the Appeal Brief, and respectfully requests that the claim rejections be reversed by the Board.

Respectfully submitted,

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